

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRIAN ALLEN SCHWEITZER,

Defendant.

CR-12-06-GF-BMM-01

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
MAGISTRATE JUDGE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on April 29, 2015. (Doc. 55). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Schweitzer admitted to having violated Standard Condition 2 by failing to report as directed to his probation officer. Schweitzer also admitted to violating Special Condition 3 by failing to attend a scheduled mental health counseling session.

Schweitzer's admissions constitute a Grade C violation. Schweitzer's criminal history category is IV and Schweitzer's underlying offense is a Class C felony. The statutory range is a maximum of 24 months in custody followed by a term of supervised release up to life. The guideline range is 6 to 12 months in custody, followed by a term of supervised release up to 54 months.

Judge Johnston found that Schweitzer violated Standard Condition 2 and Special Condition 3. Judge Johnston recommends that Schweitzer be incarcerated for five months, with thirty months of supervised release to follow. Judge Johnston recommends that if Schweitzer successfully complies with the conditions of his supervised release for eighteen months, the Court should consider discharging the remaining term of his supervised release.

This Court finds no clear error in Judge Johnston's Findings and Recommendations and adopts them in full. Incarceration for five months followed by thirty months of supervised release is an appropriate disposition of this case in light of Schweitzer's violations. If Schweitzer successfully complies with the conditions of his supervised release for 18 months, the Court may consider discharging the remaining term of his supervised release. The original terms of Schweitzer's supervised release remain in effect.

IT IS HEREBY ORDERED:

1. Judge Johnston's Findings and Recommendations (Doc. 55) is
ADOPTED IN FULL and Judgment shall be entered accordingly.

DATED this 14th day of May, 2015.



Brian Morris
United States District Court Judge